

any individual coal mine operator or employer if such State workmen's compensation law contains a provision or provisions which otherwise insure that benefits shall be available to be paid to such claimant from some other approved source.

§ 722.133 Retroactive coverage required.

No State workmen's compensation law shall be included on the Secretary's list if such law prohibits the filing of or does not provide for benefits in respect of an otherwise timely (see § 722.116) and valid claim solely on the grounds that the miner on whose total disability or death the claim is predicated was not employed in a coal mine in such State on the effective date of such State's law.

§ 722.134 Residency requirements.

No State workmen's compensation law shall be included on the Secretary's list if such law requires that the claimant be domiciled in or a resident of such State at the time the claim is filed. This section shall not be construed to prohibit a State from refusing to process a claim for benefits in any case in which the miner on whose total disability or death a claim is predicated, was not exposed for a reasonable period of time in such State.

CRITERIA: AMOUNT OF BENEFITS:
MEDICAL BENEFITS

§ 722.135 Amount of benefits, computation.

(a) Section 412(a) of the Act sets forth the amount of benefits for total disability or death due to pneumoconiosis to which an individual shall be entitled, the extent of such entitlement and persons so entitled. No State workmen's compensation law shall be included on the Secretary's list if it does not, in every case, provide benefit amounts which are substantially equivalent to or greater than those amounts to which an eligible individual would be entitled under section 412(a).

(b) No State workmen's compensation law which arbitrarily limits the total amount of benefits to which an eligible individual may be entitled over

such individual's lifetime shall be included on the Secretary's list.

(c) No State workmen's compensation law which subsequent to the effective date of this part 722 is amended to reduce the amount of benefits to which an eligible individual is entitled for total disability or death due to pneumoconiosis shall be included on the Secretary's list.

§ 722.136 Augmented benefits.

As set forth in section 412(a) of the Act the amount of benefits to which a beneficiary is entitled may be augmented by up to 100 percent based upon the number of persons (wife, children, parents, brothers, sisters) dependent upon such beneficiary for support. No State workmen's compensation law shall be excluded from the Secretary's list because it does not contain similar augmentation provisions if such law otherwise insures that beneficiaries and their dependents shall receive benefits substantially equivalent to or greater than the amounts such persons would receive under section 412(a) of the Act.

§ 722.137 Minimum benefit amounts.

No State workmen's compensation law shall be included on the Secretary's list if it does not guarantee that the minimum amount of benefits payable to any beneficiary or dependent shall be substantially equivalent to or greater than the amount to which such beneficiary or dependent would be entitled if the claim were paid under section 412(a) of the Act, notwithstanding any provision contained in the State workmen's compensation law which requires the computation of benefit amounts based upon the miner's average weekly or monthly wage.

§ 722.138 Offsets for Federal benefits prohibited.

No State's workmen's compensation law shall be included on the Secretary's list if such law requires that pneumoconiosis benefits payable to any individual shall be offset by any amount to which such individual is or may be entitled on account of total disability or death due to pneumoconiosis under any law of the United States.